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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,027	05/24/2006	Isao Sato	028340-0102	8325
23428 7590 06/02/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER MEHMOOD, JENNIFER				
ART UNIT		PAPER NUMBER		
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06/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,027

Applicant(s)

SATO ET AL.

Examiner

JENNIFER MEHMOOD

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8,9,11,12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8,9,11,12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Specification

1. The replacement specification received on April 14, 2008 is acknowledged and accepted by the Examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 6, 8, 9, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichani et al. (US 7,167,575).

For claim 1, Nichani discloses a condition analysis apparatus comprising: a three-dimensional sensor for measuring, at a plurality of sampling points, sampling-point-moves in a height direction of an object existing in a target area (col 4, lns 61-67; col 5, lns 1-7 and 35-39; Fig. 2); and area definition means for defining an area where a plurality of the sampling-point-moves are in generally a same phase (Fig. 3); said three-dimensional sensor comprising: a projection device for projecting a light pattern on the target area (col 7, lns 36-53); an image capturing apparatus for capturing an image of the target area while the light pattern is projected thereon (col 7, lns 65-67; col 8, lns 1-10), said image capturing apparatus being installed distanced from said projection

device (Fig. 2, items 10 and 108); and measurement means for measuring shifts of the pattern on the captured images (col 8, Ins 43-48 and 57-65), wherein sampling-point-moves in the height direction of the object are measured at the plurality of points based on the shifts of the pattern measured (col 8, Ins 2-9).

For claim 2, Nichani discloses information output means for outputting information of an area including the area defined by the area definition means (Fig. 1, items 30, 34, 16; col 6, Ins 27-48).

For claims 5 and 6, Nichani discloses if a specific number or more of the sampling points in a specific area represent sampling point moves in the same specific type of phase, the area definition means defines the specific area as an area where the sampling point moves in the specific type of phase are occurring (col 4, Ins 12-20 and 62-67; col 8, Ins 2-10).

For claims 8 and 9, Nichani discloses wherein the area definition means is further for searching a specific area (Fig. 2, L) for sampling points representing sampling-point-moves in the same specific type of phase, forming a group of sampling points representing the sampling point moves in generally the same phase based on the search results, and defining the formed group of sampling points as an area where the sampling point moves in generally same phase are occurring (col 4, Ins 12-20 and 62-67; col 8, Ins 2-10).

For claims 14 and 15, Nichani discloses an anomaly determination means for determining an anomaly of the object based on the area defined by the area definition means (col 4, Ins 12-20; col 6, Ins 29-48; Fig. 1, items 16, 30 and 34).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichani et al. (US 7,167,575) and further in view of Brodsky et al. (US 7,110,569).

Nichani discloses a boundary (Fig. 2, item 105) and an area definition (Fig. 2, L), but does not disclose wherein the area definition means is further for defining two or more areas in different phases, defining a boundary between the two or more areas, and defining the areas divided by the boundary as new areas. Brodsky, however, discloses an area definition means defines two or more areas in different phases (col 3, lns 43-53), defines a boundary between the two or more areas, and defines the areas divided by the boundary as new areas (col 5, lns 29-35 and 45-56). The new areas are interpreted as the overlapping areas between the two or more areas. It would have been obvious to one of ordinary skill in the art, at the time the invention was made to add a new, overlapping area, as disclosed by Brodsky, to the area already disclosed by Nichani, in order to ensure detection of a person or object between two or more areas for safety and security reasons.

Response to Arguments

6. Applicant's arguments with respect to claims 1-10 and 14-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Osterweil et al. (US 7,106,885) disclose detecting an object in a predetermined area.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Mehmood whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Daniel Wu, can be reached at (571) 272.2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Jennifer A. Mehmood/

Primary Examiner

May 29, 2008